

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KIRK ORMAND DAVIS,

Defendant.

Case Nos. 2:12-cr-373-GMN-VCF
2:13-cr-55-GMN-VCF

ORDER

These matters came before the court on October 4, 2023, for a status check regarding the revocation hearings. ECF No. 138 in Case No. 2:12-cr-373-GMN-VCF and ECF No. 124 in Case No. 2:13-cr-55-GMN-VCF. Soon after the start of the hearing, Davis began disruptive outbursts, talking over his counsel and the Court, cursing the various parties in the courtroom. When Davis proved unwilling to respond to the Court's admonishments, the Court ordered Davis removed to a holding cell where he could listen to the proceedings. The United States renewed a previous motion for a competency evaluation pursuant to 18 U.S.C. § 4241 based on the record in these matters. Counsel for Davis did not oppose the motion, noting that during a meeting with Davis earlier that day, Davis demonstrated disordered thoughts to an extent that he appeared to be unable to assist in his own defense.

Based upon the record in these matters, the Court's observations of Davis during the October 4 hearing, Davis' conduct reported in the petitions and addenda, Davis' previously documented mental health conditions, and the reports of the parties, the Court

1 finds “there is reasonable cause to believe that the defendant may presently be suffering
2 from a mental disease or defect rendering him mentally incompetent to the extent that he
3 is unable to understand the nature and consequences of the proceedings against him or to
4 assist properly in his defense.” 18 U.S.C. § 4241; *see United States v. Pederson*, 784 F.2d
5 1462, 1464–65 (9th Cir. 1986). The Court both grants the United States’ motion and *sua*
6 *sponte* orders a hearing to determine the mental competency of Mr. Davis.

7 **IT IS THEREFORE ORDERED** that:

8 A psychiatric or psychological examination of Mr. Kirk Ormand Davis shall be
9 conducted, and a psychiatric or psychological report be filed with the court, pursuant to
10 the provisions of 18 U.S.C. § 4247(b) and (c);

11 Mr. Davis is committed to the custody of the Attorney General for placement in a
12 suitable facility for a reasonable period, not to exceed 30 days. 18 U.S.C. § 4247(b).
13 Unless impracticable, the psychiatric or psychological examination shall be conducted in
14 the suitable facility closest to the court. *Id.* The director of the facility may apply for a
15 reasonable extension, but not to exceed 15 days, upon a showing of good cause that the
16 additional time is necessary to observe and evaluate the defendant. *Id.*

17 A psychiatric or psychological report shall be prepared by the examiner designated
18 to conduct the psychiatric or psychological examination. 18 U.S.C. § 4247(c). That report
19 shall be filed with the court with copies provided to the counsel for the person examined
20 and to the attorney for the United States, and shall include:

- 21 (1) Davis’ history and present symptoms;
- 22 (2) a description of the psychiatric, psychological, and medical tests
23 that were employed and their results;
- 24 (3) the examiner’s findings; and

(4) the examiner's opinions as to diagnosis, prognosis, and--

(A) [W]hether [Davis] is suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

Id.

For the information of the examiner, counsel for the parties are:

For Mr. Davis:

For the United States:

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The Court set a status conference in these two cases for November 28, 2023, at 2:00 p.m. in Las Vegas Courtroom 7D. The presence of Mr. Davis is waived. The parties are directed to provide the Court with a joint status report prior to that hearing

IT IS SO ORDERED this October 5, 2023.

THE HONORABLE GLORIA M. NAVARRO
UNITED STATES DISTRICT JUDGE